

Attorney Docket No. 10559-226001
Application No. 09/594,352
Amendment dated May 10, 2004
Reply to Office Action dated February 17, 2004

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

The indication that claims 15-18 and 23-26 are allowed is appreciatively noted.

However, the rejection of claims 11-14 and 19-22 remains respectfully traversed.

Claims 11-14 and 19-22 stand rejected under 35 USC 103 as allegedly being unpatentable over Chen in view of Beal. While it is admitted that both these references teach that a driver can be used in many different environments, it is respectfully suggested that the hypothetical combination of Chen in view of Beal does not teach or suggest the specific limitations of the claims, in which the driver is used to communicate between the operating system and a network processor, is registered with the operating system and is registered with the network processor.

The basic teaching of Chen is a teaching to use a driver in multiple different environments. Admittedly, this driver can be used with a number of different buses. Basically, Chen describes the problem in column 2 of providing different device drivers for each adapter and bus type combinations. The system

Attorney Docket No. 10559-226001
Application No. 09/594,352
Amendment dated May 10, 2004
Reply to Office Action dated February 17, 2004

of Chen allows a single device driver to control multiple peripherals throughout the system, and over many different buses. However, the description in column 9, beginning at line 10, that this a "multiple bus device driver", and includes a first portion which is a driver of the interfaces with the operating system, and also includes a core device driver portion 104 and an adjunct initialization routine module 106. Note, however, that this adjunct module operates to direct "the identification of all potentially present bus types..." see column 9, lines 29-32; and not to allow communication between a processor and a network processor. Basically all of column 9, as well as the beginning parts of column 10, describe that the core device driver can be used over multiple bus types. Again, while there is a description of using a peripheral interface part, this is for allowing the same driver to drive the device to operate in any of different multiple different kinds of bus types. This is not for allowing the unit to be instantiated with an operating system and network processor, and used to communicate between the two.

The rejection states that whatever teaching is missing from Chen, is made up in Beal. Beal teaches a device driver that can support different kinds of operating systems, network protocols and hardware; basically a multifunction device driver. The

Attorney Docket No. 10559-226001
Application No. 09/594,352
Amendment dated May 10, 2004
Reply to Office Action dated February 17, 2004

rejection calls attention to Beal's claim, which states that the same device driver can be used to support a new operating system or a new network protocol or adapter hardware.

Therefore, assuming arguendo the hypothetical combination of Chen and Beal could be made, one would obtain a Chen-type general device which was configured for multiple different types of hardware according to the teaching of Beal. Nowhere in either of these references is there any teaching or suggestion that the driver is used not only with the operating system, but also with a network processor and to communicate therebetween. Chen teaches different kinds of device types, and never teaches instantiating the driver with a network processor. Nor does Beal teach anything about the network processor. Beal clearly does teach a driver which can be used for multiple different kinds of hardware or network protocols; however, there is no teaching or suggestion that this driver can be used in both a processor and a network processor.

Even assuming, arguendo, that the hypothetical combination of Chen and Beal does teach the driver being used in both the processor and the network processor, which again the undersigned emphasizes that it does not, it still does not teach or suggest the important limitations of claim 11. Specifically there is no teaching or suggestion in the hypothetical combination of

Attorney Docket No. 10559-226001
Application No. 09/594,352
Amendment dated May 10, 2004
Reply to Office Action dated February 17, 2004

instantiating a driver "to communicate between an operating system and a network processor".

Therefore, and in summary of the above, claim 11 defines subject matter which is nowhere taught or suggested by the hypothetical combination of the art. While the prior art does show drivers that can be used on multiple different buses (Chen) and drivers that can be used with different hardware and different network protocols (Beal), there is no teaching or suggestion of a driver that can be instantiated to communicate between the operating system and network processor, and registered with both the operating system and the network processor. Therefore, claim 11 should be allowable along with the claims which depend therefrom.

Claim 19 analogously defines instantiating a first driver to communicate between the operating system and network processor, registering the first driver with the operating system and registering the first driver with the network processor. Again, this is nowhere taught or suggested by the cited prior art, and should be allowable, for these reasons.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition,

Attorney Docket No. 10559-226001
Application No. 09/594,352
Amendment dated May 10, 2004
Reply to Office Action dated February 17, 2004

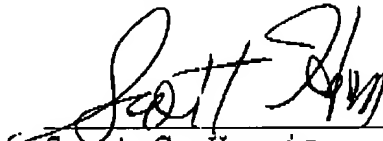
because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the above amendments and remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 05/10/2004



Scott C. Harris
Reg. No. 32,030

Fish & Richardson P.C.
PTO Customer Number: 20985
4350 La Jolla Village Drive, Suite 500
San Diego, CA 92122
Telephone: (858) 678-5070
Facsimile: (858) 678-5099
10393766.doc